



South Carolina House of Representatives

Legislative Update

Robert W. Harrell, Jr., Speaker of the House

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CONTENTS

HOUSE WEEK IN REVIEW	02
HOUSE COMMITTEE ACTION	02
BILLS INTRODUCED IN THE HOUSE THIS WEEK.....	03

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HOUSE WEEK IN REVIEW

The South Carolina House of Representatives convened on Tuesday January 9, 2007, to commence the first regular legislative session of the 117th General Assembly.

The House adopted and sent to the Senate Concurrent Resolution **H.3213** to provide that the Senate and the House of Representatives meet in joint assembly on Wednesday, February 7, 2007, at 12:00 noon for the purpose of conducting **JUDICIAL ELECTIONS**.

The House gave second reading approval to **H.3209**, a bill that extends to April 1, 2007, the deadline for the **CHRONIC KIDNEY DISEASE TASK FORCE** to submit its report and recommendations to the Chairmen of the House Medical, Military, Public and Municipal Affairs Committee and the Senate Medical Affairs Committee and the Governor.

HOUSE COMMITTEE ACTION

There were no full committee meetings that addressed legislation, which is covered by the *Legislative Update*, this week.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

EDUCATION AND PUBLIC WORKS

H.3232 FRATERNITY AND SORORITY SPECIAL LICENSE PLATES

Rep. Breeland

This bill provides that fees collected for the issuance of fraternity and sorority special license plates may be used for academic scholarships, or to fund programs that send boys and girls who are at least eight years old and not more than sixteen years old to summer camp, or both.

H.3238 ACCEPTABLE INTERNET POLICIES FOR PUBLIC SCHOOLS

Rep. Haskins

This legislation requires the establishment of Internet use policies for South Carolina public schools.

H.3240 STUDENT ACCESS TO PROGRAMS Rep. Scarborough

This legislation provides that a school may not deny a student access to programs because the student's parent has refused to place the student on a psychotropic medication. The bill prohibits a teacher or school district personnel from requiring a student to take medication and provides that a parent may refuse psychological screening of the student.

JUDICIARY

H.3193 PROPOSED CONSTITUTIONAL AMENDMENT ESTABLISHING A PROCEDURE FOR THE ENACTMENT OF LAWS AND CONSTITUTIONAL AMENDMENTS BY INITIATIVE PETITION

Rep. Davenport

Initiative petitions are citizen-generated ballot questions which, if passed by majority vote, have the force of law. This proposed constitutional amendment establishes a specified procedure for the enactment of laws and constitutional amendments by initiative petition.

H.3194 PROPOSED CONSTITUTIONAL AMENDMENT ALLOWING RECALL OF CERTAIN EXECUTIVE, JUDICIAL AND LEGISLATIVE OFFICERS

Rep. Davenport

Recall is a procedure that allows citizens to remove and replace a public official before the end of a term of office. This proposed constitutional amendment outlines procedures for recalling and removing from public office persons holding public offices of the state, a specified district of the state, or a political subdivision thereof in the executive, judicial, and legislative branches of government.

H.3196 CHANGES TO REQUIRED PROCEDURES WHEN A PERSON IS

ARRESTED FOR DRIVING UNDER THE INFLUENCE Rep. Shoopman

An individual arrested for driving under the influence must have Miranda rights read to him at the incident site as well as at the breath test site. This legislation provides that Miranda rights need not be read at the breath test site if read at the incident site.

Current law provides that a person arrested for driving under the influence must have his conduct videotaped. This legislation provides that the failure to capture any portion of the conduct required to be videotaped is not grounds to dismiss a charge or suppress the videotape, if (1) the court determines that the arresting officer made a good faith attempt to comply with the requirements, and (2) the failure to capture was the result of the subject's actions or the inadvertent actions of the arresting officer.

H.3197 AMENDMENTS TO ELECTION LAWS Rep. Herbkersman

As defined by South Carolina election law, the term "club district" means the territory of the general election voting place or precinct in which the political party club is formed, whether a ward or township or a subdivision. This legislation deletes the definition of the term "club district" as well as deletes references to this term from the election laws.

This legislation also provides that all elected precinct committeemen may vote on questions before the county committee and that the chairman may vote in the case of a tie. An elected officer of the county committee who is not a precinct committeeman may vote de facto.

H.3199 "ATM SAFETY ACT" Rep. G.M. Smith

Relating to entering a bank, depository, or building and loan association with intent to steal, this bill creates various ATM criminal offenses and outlines penalties for these offenses. Additionally, the bill requires the posting of a warning sign on ATMS and similar devices.

H.3201 RECREATIONAL POKER GAMES Rep. Scarborough

Relating to unlawful games and betting, this bill creates an exception for certain poker card games engaged in for the sole purpose of recreational activity.

H.3202 PROPOSED CONSTITUTIONAL AMENDMENT PERTAINING TO HUNTING, TRAPPING, AND FISHING Rep. White

This joint resolution proposes to amend the constitution so as to provide that hunting, trapping, and fishing, and the taking of wild animals, birds, and fish are a valued part of our heritage and shall be forever preserved for the people. The joint resolution further provides that fish and wildlife shall be managed by laws and regulations that provide persons with the continued opportunity to take, by traditional means and methods, species traditionally pursued by hunters, anglers, and trappers. Any person who is licensed to hunt, fish, or trap and who is adversely affected by a failure to comply with this legislation shall have a private cause of action to enforce this constitutional amendment. The joint resolution further provides that the right of the people to hunt, fish, trap, and harvest game shall be subject only to such regulations and restrictions as the General Assembly may prescribe by general law.

H.3212 ISSUANCE OF CONCEALABLE WEAPONS PERMITS Rep. Delleney

This bill requires that valid out-of-state permits to carry concealable weapons held by a resident of another state be honored by South Carolina. The legislation deletes the

current provision that South Carolina will only honor out-of-state permits issued by a state with which South Carolina has reciprocity.

H.3214 *PRESCRIBED FIRES* Rep. Witherspoon

This legislation provides that gross negligence rather than negligence must be proven before a property owner or lessee or his agent or employee conducting a prescribed burn is liable for damages, injury, or loss.

H.3125 *"BORN ALIVE INFANT PROTECTION ACT"* Rep. Davenport

This legislation provides that any infant who survives an abortion resulting in his live birth must be given reasonable and immediate medical care. Before an abortion may be performed, the physician must certify that the abortion is necessary to preserve the life or health of the woman and that the abortion method to be used must be the method most likely to preserve the life and health of the unborn child. When performing an abortion of a viable unborn child a physician, other than the physician performing the abortion, must be present and must provide immediate medical care to the infant at birth. There are exceptions in the case of a medical emergency that threatens the life or permanent physical health of the women.

**H.3219 *ADMINISTRATIVE LAW COURT HEARINGS AND PROCEEDINGS*
Rep. Harrison**

Currently contested cases arising under the Occupational Safety and Health Act are not heard by an administrative law judge; this bill deletes this exception. Relating to the Department of Labor, Licensing and Regulation (LLR) hearing occupational health and safety contested cases, this bill provides that a party aggrieved by a citation, penalty, or abatement issued by LLR may request a contested case hearing before the administrative law court in accordance with the Administrative Procedures Act.

**H.3225 *FORFEITURE OF BOND AND RECOGNIZANCE PROCEEDINGS*
Rep. Hart**

When a condition of bond or recognizance is violated by the person's failure to appear in court as required by law, this bill provides that the State has the right to full estreatment of the bond or recognizance 180 days after the person failed to appear in court as required by law.

H.3226 *PUBLIC OFFICIALS* Rep. Clemmons

Relating to representation of a person by a public official before a governmental body, this bill requires a State, county, or municipal public official involved in a conflict of interest to comply with recusal requirements. The bill allows a public official to remain in office, if the recusal requirements are met. Additionally, the bill prohibits a governmental body from removing or disallowing a person to serve in office or employment based on race, color, national origin, religion, sex, familial status, disability, or legal occupation.

**H.3227 *THREATENING THE LIFE, PERSON, OR FAMILY OF A PUBLIC
OFFICIAL, TEACHER, OR PRINCIPAL* Rep. J.E. Smith**

Relating to threatening the life, person, or family of a public official, teacher, or principal, this bill includes direct or indirect threats. Currently only direct threats are provided for in the statute.

H.3228 TIME OFF TO VOTE Rep. J.E. Smith

This bill requires employers to give employees reasonable time off from work to vote in elections.

H.3229 PRAYER AT THE CITADEL Rep. Scarborough

This bill authorizes prayer at the Citadel.

**H.3230 MORE THAN ONE NOMINATION FOR THE SAME OFFICE
Rep. Scarborough**

This bill provides that a person may not accept more than one nomination for the same office.

**H.3231 PROPERTY OWNERS NOT LIABLE FOR INJURIES TO
TRESPASSERS**

Rep. Scarborough

This bill provides that the owner of real property is not liable in a civil action for acts or omissions causing injury to a person who trespasses on his property to commit a crime or when reasonable force is used to remove a person who is trespassing on his property.

**H.3235 AMENDMENTS TO THE SOUTH CAROLINA TORT CLAIMS ACT
Rep. J.E. Smith**

Relating to definitions used in the South Carolina Tort Claims Act, this bill includes the South Carolina National Guard and the South Carolina State Guard in certain definitions. The bill further provides that an employee includes members of the South Carolina National Guard, members of the South Carolina State Guard, and persons acting on behalf or in service of a governmental unit without pay or compensation. Relating to exemptions to the waiver of immunity in the state tort claims act, this bill includes certain home security and counter-terrorist activities in the exemption relating to activities of the South Carolina National Guard and the South Carolina State Guard.

**H.3236 USE OF CORPORAL PUNISHMENT IN CHILDCARE FACILITIES
Rep. J.E. Smith**

This bill bans the use of corporal punishment in childcare facilities that are required to be licensed, registered, or approved except in certain cases.

H.3241 DIRECTOR OF THE DEPARTMENT OF INSURANCE Rep. Viers

Currently the Director of the Department of Insurance is appointed by the Governor with the advice and consent of the Senate. Among other things, this bill provides that the Director of the Department of Insurance must be elected to office by the qualified electors of the state in the general election.

LABOR, COMMERCE AND INDUSTRY

**H.3218 BINDING AGREEMENTS REGARDING SALES OF DOMESTIC
BRANDS OF BEER Rep. Harrison**

This bill revises provisions relating to agreements between importers and foreign brewers of beer which are binding on successor importers, so as to apply them to domestic brands of beer. The legislation also stipulates that when a producer or primary American source of supply transfers, conveys, or assigns a brand of beer to another producer or primary American source of supply, the assignment of territory of that brand to a wholesaler, as required by law, is binding on the successor producer or primary American source of supply.

H.3224 WIND AND HAIL INSURANCE FOR EXPANDED COASTAL AREA

Rep. Miller

This bill revises provisions specifying the areas where the South Carolina Wind and Hail Underwriting Association is required to provide essential property insurance so as to expand the definition of the term "coastal area" to include all areas in counties bordering the Atlantic Ocean. The bill eliminates the definition for "seacoast area."

**H.3234 HEALTH INSURERS REQUIRED TO PROVIDE COVERAGE FOR
COLORECTAL CANCER SCREENING** Rep. J. E. Smith

This bill requires health insurers to provide coverage for colorectal cancer screening for covered individuals who are at least fifty years of age and for covered individuals who are less than fifty years of age and meet criteria for high risk for colorectal cancer.

WAYS AND MEANS

**H.3195 RATIFICATION OF STATE CONSTITUTIONAL AMENDMENTS ON
INVESTMENT OF STATE RETIREMENT SYSTEMS' FUNDS** Rep.

Kirsh

This bill ratifies amendments to the South Carolina Constitution approved by voters at the general election that eliminate the State Retirement Systems Investment Panel and remove restrictions on the investments allowed for funds of the various state-operated retirement systems that limit such investments to American-based corporations registered on an American national exchange.

H.3198 "CANCER DRUG DONATION PROGRAM ACT" Rep. White

This bill enacts the "Cancer Drug Donation Program Act" establishing a program in the Department of Health and Environmental Control for the donation of cancer drugs to certain patients who do not qualify for Medicaid or any state funded prescription drug program. The legislation establishes certain restrictions on drugs and supplies that may be donated to the program and requires the department to establish patient eligibility criteria, standards and procedures for accepting, storing, distributing, and dispensing donated drugs, and handling fees. The department is required to establish a program participant registry. The legislation contains provisions for immunity from civil and criminal liability and from professional disciplinary action. The legislation designates certain existing statutory as the "South Carolina Central Cancer Registry".

**H.3200 PROPERTY TAX OR INCOME TAX CREDIT FOR REDEVELOPMENT
EXPENSES** Rep. Talley

This bill provides a property tax credit or an income tax credit for redevelopment expenses incurred in connection with a redevelopment project. The legislation also

revises definitions for purposes of the community development law, so as to define the terms “local taxing entity”, “local taxing entity ratio”, and “redevelopment expenses”.

**H.3211 EMERGENCY MEDICAL SERVICES PERSONNEL PARTICIPATION IN
SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM
Rep. Harrell**

This bill provides that beginning July 1, 2007, emergency medical services personnel (ambulance attendants, ambulance drivers, and ambulance attendant-drivers) employed by the State, its political subdivisions, or eligible service organizations shall participate in the South Carolina Police Officers Retirement System.

**H.3216 STATE INCOME TAX CREDIT FOR MAINTAINING ENHANCED
RIPARIAN BUFFERS ADJOINING TIMBER HARVEST AREAS
Rep. Witherspoon**

This bill provides that, subject to specified requirements and limitations, a taxpayer that harvests timber, or allows others to harvest timber, from land located in South Carolina, may claim a credit against its state income taxes equal to five hundred dollars per acre for maintaining an enhanced riparian buffer along streams and rivers adjoining the timber harvest.

**H.3233 LIMITATIONS ON REQUIREMENT THAT PERSONAL PROPERTY
TAXES ON WATERCRAFT AND OUTBOARD MOTORS BE CURRENT
BEFORE TRANSFER OF TITLE Rep. Scarborough**

This bill revises the requirement for personal property taxes on a watercraft and outboard motors to be current before the title to these items may be transferred, so as to provide that this prohibition on the transfer of title applies only for property taxes due for property tax years beginning after 1999. The legislation provides that used watercraft and used outboard motors obtained from a licensed dealer on or after October 3, 2000, are free of the lien for the payment of property taxes for property tax years before 2000. The legislation provides that no refunds of property taxes on watercraft and outboard motors are payable for property tax years before 2000. The legislation repeals Act 451 of 2002 relating to transfer of titles to watercraft in Lexington County.

**H.3239 AUTHORIZATION OF FUNDING FOR ACQUISITION OF LAND FOR A
NEW EMPLOYMENT SECURITY COMMISSION BUILDING IN
SPARTANBURG COUNTY Rep. Funderburk**

This joint resolution authorizes the South Carolina Employment Security Commission to expend up to five hundred thousand dollars of the funds made available to the State under Section 903 of the Social Security Act for the purpose of acquiring land on which to erect a building for use by the South Carolina Employment Security Commission in Spartanburg County.

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